

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1 and 73-89 are pending in the application, with claims 1 and 73 being the independent claims. Claims 1, 73 and 80 are sought to be amended. Support for the amendment to claims 1, 73 and 80 can be found throughout the specification, for example, at page 21, lines 2-6. It is believed that the amendments presented above will place the application in condition for allowance and/or in better form for appeal. *See* 37 C.F.R. § 1.116(a). It is respectfully requested that the amendments after final Office Action be entered and considered.

Based on the above amendments and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

I. Claim Rejections Under 35 U.S.C. § 102

Claims 1, 73-78 and 80-89 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,712,163 to Parenteau *et al.* ("Parenteau"). *See* Office Action, page 2. Applicants respectfully traverse this rejection.

The currently presented claims are directed to serum-free culture media comprising heparin, a fibroblast growth factor (FGF) and an agent causing an increase in intracellular levels of cyclic adenosine monophosphate (cAMP). For claims 1 and 75-89, the agent that causes an increase in intracellular levels of cAMP is selected from the group consisting of

forskolin, isoproterenol and theophylline. For claim 73, the agent is a β -adrenergic receptor agonist, and for claim 74, the agent (β -adrenergic receptor agonist) is isoproterenol.

Parenteau does not teach a serum-free cell culture medium comprising heparin, an FGF and an agent that causes an increase in intracellular levels of cAMP as specified in the claims. Therefore, Parenteau cannot and does not anticipate any of the currently presented claims. Applicants respectfully request that the rejection under 35 U.S.C. § 102 be reconsidered and withdrawn.

II. Claim Rejections Under 35 U.S.C. § 103

Claims 79 and 88-89 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Parenteau. *See* Office Action, page 4. Applicants respectfully traverse this rejection.

A *prima facie* case of obviousness cannot be established unless all of the claim elements are taught or suggested by the cited references. *See* M.P.E.P. § 2143.03. Parenteau does not teach or suggest a serum-free cell culture medium comprising heparin. Therefore, a *prima facie* case of obviousness cannot be established based on Parenteau.

Applicants additionally note that Parenteau does not teach or suggest a 10X concentrated medium formulation (claim 79), an abnormal cell (claim 88), or an abnormal cell that is a transformed cell, an established cell or a cell derived from a diseased tissue sample (claim 89).

The Examiner has not pointed to anything which teaches or suggests the limitations of claims 79, 88 and 89. With respect to claim 79, the Examiner stated that "[a] review of any tissue culture media catalog indicates that medium concentrations of 10X are conventional and well within the skill of the practitioner." Office Action, page 4.

Applicants respectfully draw the Examiner's attention to the M.P.E.P. § 2144.03 which sets forth the *limited circumstances* in which an Examiner may take official notice of facts not in the record or to rely on "common knowledge" in making a rejection¹. Since these circumstances have not been met with respect to claims 79, 88 and 89 (the facts asserted to be conventional are *not* "capable of instant and unquestionable demonstration as being well known"), and since the technical line of reasoning underlying the Examiner's decision to take official notice is not "clear and unmistakable," the obviousness rejection of claims 79, 88 and 89 cannot be maintained on the basis of the unsupported, conclusory statements set forth in the Office Action.

Since not all elements of the currently pending claims are taught or suggested in the cited reference, Applicants respectfully request that the rejection under 35 U.S.C. § 103 be reconsidered and withdrawn.

¹ According to the M.P.E.P. § 2144.03, the circumstances in which official notice may be relied upon "should be rare when an application is under final rejection . . ."

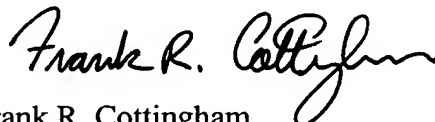
Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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